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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 DANIEL CARRERA-VIRULA,

CASE NO. 07CV0439 BEN (AJB)

12
13 vs.

Petitioner,

**ORDER DENYING
PETITIONER'S MOTION FOR
RECONSIDERATION [D.E. 7]**

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15 ALBERTO GONZALES, et al.,

16
17 Respondents

18 On March 8, 2007, Petitioner Daniel Carrera-Virula ("Petitioner") proceeding *pro se* filed a
19 petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner also sought appointment
20 of counsel, which the Court denied on August 20, 2007. Petitioner now seeks a Motion to Reconsider
21 the Court's August 20, 2007, Order denying appointment of counsel. For the reasons that follow,
22 Petitioner's Motion to Reconsider is **DENIED**.

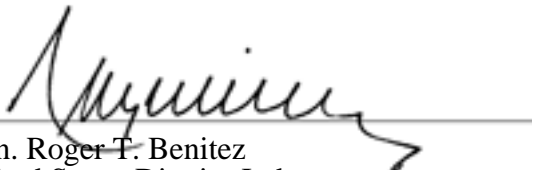
23 Petitioner asks this Court to reconsider its previous order under Fed. R. Civ. P. 59(e).
24 Reconsideration under Rule 59(e) "is appropriate if the district court (1) is presented with newly
25 discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if
26 there is an intervening change in controlling law." *School Dist. No. 1J, Multnomah County, Or. v.*
27 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (citing *All Hawaii Tours, Corp. v. Polynesian*
28 *Cultural Center*, 116 F.R.D. 645, 648 (D. Hawaii 1987), *rev'd on other grounds*, 855 F.2d 860 (9th

1 Cir.1988)). None of these circumstances apply here, Petitioner merely seeks for this Court to change
2 its mind in Petitioner's favor. The Petitioner presents no newly discovered evidence to justify
3 reconsideration. Similarly, the Court finds that Rule 60(b) has no application here either. Rule 60(b)
4 allows the Court to relieve a party from final judgment on the basis of "(1) mistake, inadvertence,
5 surprise or excusable neglect;(6) or any other reason justifying relief from the operation of the
6 judgment." Fed. R. Civ. P. 60(b). This has not been shown and does not apply.

7 Furthermore, Local Civil Rule 7.1.i requires a party seeking reconsideration to show "what
8 new or different facts and circumstances are claimed to exist which did not exist, or were not shown,
9 upon such prior application." Petitioner has failed to fulfill this procedural requirement. Petitioner's
10 Motion for Reconsideration (Doc. No. 7) is therefore **DENIED**.

11 **IT IS SO ORDERED.**

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13 DATED: August 29, 2007

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16 Hon. Roger T. Benitez
17 United States District Judge
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